

**Dzerzhyn District Court of Kharkiv****RESOLVED**

Case No. 638/5519/23

Proceedings No. 1-kp/638/1372/23

Ukhvalaimenem of Ukraine

On August 2, 2023, the Dzerzhinsky District Court of Kharkiv, consisting of:

the presiding judge with the participation of: the secretary of the court session, the prosecutor, the defender -PERSON_1, -PERSON_2, -PERSON_3, -PERSON_4,

having considered in a court session in the courtroom in Kharkiv the criminal proceedings entered in the Unified Register of Pretrial Investigations under No. 22022220000000618 dated April 12, 2022, on charges of:

PERSON_5 , INFORMATION_1 , a citizen of Chile and the USA, born in Los Angeles, California, United States of America, married, not previously convicted, officially unemployed, who actually lives at the address: ADDRESS_1 ,

in the commission of criminal offenses provided for in Part 2 of Art. 436-2, Part 3 of Art. 436-2 of the Criminal Code of Ukraine,-

INSTALLED:

Criminal proceedings No. 22022220000000618 dated April 12, 2023 with an indictment against PERSON_5, INFORMATION_1, under Part 2 of Article 1, are pending in the Dzerzhinsky District Court of Kharkiv. 436-2, Part 3 of Art. 436-2 of the Criminal Code of Ukraine.

By the decision of the Dzerzhinsky District Court of Kharkiv dated June 26, 2023, the criminal proceedings against PERSON_5 have been scheduled for trial.

According to the letter of the Kharkiv Pre-trial Detention Center dated July 7, 2023, PERSON_5 was released on July 6, 2023 upon payment of bail in the amount of UAH 402,600.00.

At the court session scheduled for August 2, 2023, the accused PERSON_5 did not arrive, the court did not inform about the reasons for his non-appearance, he did not provide any evidence to confirm the validity of the reason for his non-appearance.

At the court session, the court raised the issue of bringing the accused to the next court session.

In the court session, the prosecutor did not object to the application of the accused to the court in connection with the failure to inform the latter about the reasons for his non-appearance and the lack of data regarding the valid reasons for his non-appearance. He noted that the absence of the accused in the court session makes it impossible to hold the court session.

At the court hearing, the defense attorney objected to the defendant's plea, referring to its prematurity.

In the court session, the prosecutor attached the letter of the Office of the Security Service of Ukraine in the Kharkiv region dated August 1, 2023 No. 70/1-7786 regarding the violation of the conditions of the preventive measure, according to which Lira Lopez Gonzalo Angel Quintilio on a BMW motorcycle,

number plate NUMBER_1, voluntarily went to the state border of Ukraine with Hungary. While on the territory of the Transcarpathian region in the period from July 31, 2023 to August 1, 2023, the above-mentioned person made an unsuccessful attempt to cross the state border at the Chop checkpoint (Tysa).

In accordance with Clause 1 Part 2 of Art. 131 of the Criminal Code of Ukraine, one of the types of measures to ensure criminal proceedings is a pretext.

According to Part 2 of Art. 139 of the Criminal Procedure Code of Ukraine if the accused, who was summoned in accordance with the procedure established by this Code (in particular, the available confirmation of his receipt of the summons or familiarization with its content in another way), did not appear without valid reasons or did not report the reasons for his non-appearance, the accused may be applied pretext.

According to part 1, 3 of Art. 140 of the Criminal Procedure Code of Ukraine, the pretext consists in the forced accompaniment of the person to whom it is applied, by the person who executes the decision on the implementation of the pretext, to the place of her summons at the time specified in the decision. The pretext can be applied to the accused.

According to Part 1 of Art. 323 of the Criminal Procedure Code of Ukraine, if the accused, to whom a preventive measure in the form of detention has not been applied, has not arrived at the court session when summoned, the court postpones the trial, sets the date of a new session and takes measures to ensure his arrival at the court. The court also has the right to pass a decision on the plea of the accused.

Taking into account the above, the presence in the materials of the criminal proceedings of data regarding the proper notification of the accused about the date, time and place of the court session, since he personally participated in the preparatory court session and was present at the announcement of the court decision on the appointment of the criminal proceedings to trial on August 2, 2023 year, lack of data on the reasons for non-appearance at the scheduled court session, failure to inform the accused about the reasons for non-appearance and failure to provide evidence proving the seriousness of the reasons for his non-appearance, the court considers it necessary to apply a pretext to the accused.

Guided by Art. 140, 142, 143, 323 of the Criminal Procedure Code of Ukraine, court,-

RESOLVED:

Apply the pretext to PERSON_5 , INFORMATION_1 , a citizen of Chile and the USA, a native of the city of Los Angeles, California, United States of America, married, not previously convicted, officially unemployed, who actually lives at the address: ADDRESS_1 , to participate in the consideration of criminal proceedings filed to the Unified Register of Pretrial Investigations under No. 22022220000000618 dated April 12, 2022, on his accusation of committing criminal offenses provided for in Part 2 of Art. 436-2, Part 3 of Art. 436-2 of the Criminal Code of Ukraine.

Deliver PERSON_5, INFORMATION_1, to the court session scheduled for August 22, 2023 at 2 p.m. 30 minutes, which will take place in the premises of the Dzerzhynsky district court in Kharkiv.

The execution of the resolution will be entrusted to the Department of the Security Service of Ukraine in the Kharkiv region.

The Kharkiv Regional Prosecutor's Office will be entrusted with the control of the implementation of the resolution.

The decision is not subject to appeal.

Judge PERSON_1

Date of decision 01.08.2023

Published 08/03/2023

Court register for the case — 638/5519/23

<div>Resolution dated 04.08.2023 Criminal Dzerzhyn District Court of Kharkiv Oros O. V.</div>	<div>Resolution dated August 2, 2023 Criminal Dzerzhyn District Court of Kharkiv Oros O. V.</div>	<div>Resolution dated August 1, 2023 Criminal Dzerzhyn District Court of Kharkiv Oros O. V.</div>	<div>Resolution dated 25.06.2023 Criminal Dzerzhyn District Court of Kharkiv Oros O. V.</div>	<div>Resolution dated 25.06.2023 Criminal Dzerzhyn District Court of Kharkiv Oros O. V.</div>	<div>Resolution dated 07.06.2023 Criminal Dzerzhyn District Court of Kharkiv Oros O. V.</div>
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